

**ASSEMBLY BILL**

**No. 1417**

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**Introduced by Assembly Member Smyth**

February 27, 2009

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An act to amend Section 594 of the Penal Code, relating to vandalism.

LEGISLATIVE COUNSEL'S DIGEST

AB 1417, as introduced, Smyth. Vandalism.

Existing law, amended by Proposition 21, an initiative measure enacted by voters at the March 7, 2000, statewide primary election that requires a  $\frac{2}{3}$  vote of the Legislature to substantively amend, makes a person who maliciously commits any of specified destructive acts with respect to the real or personal property of another guilty of vandalism.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 594 of the Penal Code is amended to  
2 read:  
3 594. (a) Every person who maliciously commits any of the  
4 following acts with respect to any real or personal property *that*  
5 *is* not his or her own, in cases other than those specified by state  
6 law, is guilty of vandalism:  
7 (1) Defaces with graffiti or other inscribed material.  
8 (2) Damages.  
9 (3) Destroys.

1 Whenever a person violates this subdivision with respect to real  
2 property, vehicles, signs, fixtures, furnishings, or property  
3 belonging to any public entity, as defined by Section 811.2 of the  
4 Government Code, or the federal government, it shall be a  
5 permissive inference that the person neither owned the property  
6 nor had the permission of the owner to deface, damage, or destroy  
7 the property.

8 (b) (1) If the amount of defacement, damage, or destruction is  
9 four hundred dollars (\$400) or more, vandalism is punishable by  
10 imprisonment in the state prison or in a county jail not exceeding  
11 one year, or by a fine of not more than ten thousand dollars  
12 (\$10,000), or if the amount of defacement, damage, or destruction  
13 is ten thousand dollars (\$10,000) or more, by a fine of not more  
14 than fifty thousand dollars (\$50,000), or by both that fine and  
15 imprisonment.

16 (2) (A) If the amount of defacement, damage, or destruction is  
17 less than four hundred dollars (\$400), vandalism is punishable by  
18 imprisonment in a county jail not exceeding one year, or by a fine  
19 of not more than one thousand dollars (\$1,000), or by both that  
20 fine and imprisonment.

21 (B) If the amount of defacement, damage, or destruction is less  
22 than four hundred dollars (\$400), and the defendant has been  
23 previously convicted of vandalism or affixing graffiti or other  
24 inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6,  
25 or 640.7, vandalism is punishable by imprisonment in a county  
26 jail for not more than one year, or by a fine of not more than five  
27 thousand dollars (\$5,000), or by both that fine and imprisonment.

28 (c) Upon conviction of any person under this section for acts  
29 of vandalism consisting of defacing property with graffiti or other  
30 inscribed materials, the court shall, when appropriate and feasible,  
31 in addition to any punishment imposed under subdivision (b), order  
32 the defendant to clean up, repair, or replace the damaged property  
33 himself or herself, or order the defendant, and his or her parents  
34 or guardians if the defendant is a minor, to keep the damaged  
35 property or another specified property in the community free of  
36 graffiti for up to one year. Participation of a parent or guardian is  
37 not required under this subdivision if the court deems this  
38 participation to be detrimental to the defendant, or if the parent or  
39 guardian is a single parent who must care for young children. If

1 the court finds that graffiti cleanup is inappropriate, the court shall  
2 consider other types of community service, where feasible.

3 (d) If a minor is personally unable to pay a fine ~~levied~~ *imposed*  
4 for acts prohibited by this section, the parent of that minor shall  
5 be liable for payment of the fine. A court may waive payment of  
6 the fine, or any part thereof, by the parent upon a finding of good  
7 cause.

8 (e) As used in this section, the term “graffiti or other inscribed  
9 material” includes any unauthorized inscription, word, figure,  
10 mark, or design, that is written, marked, etched, scratched, drawn,  
11 or painted on real or personal property.

12 (f) The court may order any person ordered to perform  
13 community service or graffiti removal pursuant to ~~paragraph (1)~~  
14 ~~of subdivision (c)~~ to undergo counseling.

15 (g) This section shall become operative on January 1, 2002.